

EXHIBIT I

05/15/2006 11:25 914-345-3169

WESTCHESTER MEDICAL

PAGE 04/09

00000011.docx:58 (UMI)

1-814-208-5444 From: Jeffrey Altholz MD

02/16/2006 15:56 914-34 169

WESTCHESTER MEDICAL

PAGE 11/14

## Westchester Medical Care, PLLC

Patient Name Elifon, E. Bon Age 55 Date 2-17-06What is the reason for your visit today? NOIs visit related to a work injury? NO Is visit related to a car accident? NOHas your insurance changed? NO Has your address/phone changed? NOBP      HR      Temp      LMP      Allergies NKDA2/17/06 - Shy Bladder Exam 554.0 g medBP: 120/70 At here for evaluation, unable to  
P: 120 produce urine specimen at recent drug test.

H: 5'6" Pt denies H/O renal dz.

W: 210 Pt states he has seen his PCP last year

who told him that his "prostate was

swollen" and that's why at times he

cannot urinate. He was given a medication,

he cannot remember the name, for a short time.

He says he has times when he feels like he

has to urinate, but the "urine" just won't come out.

Other times he reports urinary incontinence.

Abd ⊕ BS soft NT/ND

BCVA 10/20

Rectal prostate smooth, slightly enlarged

ETOH. None  
occ been.

Plan/ - UA

8 drug use

- BUP, RSA

0 H/O DWI.

Jeffrey Altholz MD M. Bon RPAC.

Jeffrey Altholz, MD

Michelle Bonamassa, RPA-C

Gary Lehrman, MD

MED0005

04/04/2006 14:27 914-345-3169

WESTCHESTER MEDICAL

PAGE 02/02

212 676 9585

LabCorp Raritan  
69 First Avenue, Raritan, NJ 08869-0000

Phone: 908-526-2400

SPECIMEN 048-042-3065-0	TYPE S	PRIMARY LAB RN	REPORT STATUS COMPLETE	Page #: 1
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ADDITIONAL INFORMATION SSN:

FASTING: N		PHONE: 718-423-0342		DOB: 8/05/1950	
PATIENT NAME GIBBON, CLIFTON		SEX M	AGE (YR/MOS.) 35 / 6		
PT. ADDR: 160 S. CENTRAL AVENUE Elmsford NY 10523-0000					
DATE OF COLLECTION TIME 2/17/2006 13:22	DATE RECEIVED 2/18/2006	DATE REPORTED 2/18/2006	TIME 9:07	6338	

CLINICAL INFORMATION	
CD- 10026205493	
PHYSICIAN ID. ALTHOLZ J	PATIENT ID. 101684883
ACCOUNT: JEFFREY ALTHOLZ MD (C)	
CLINICAL ACCOUNT 160 S Central Ave Elmsford NY 10523-0000	
ACCOUNT NUMBER: 31607850	

TEST	RESULT	LIMITS	LAB
Urinalysis, Routine			RN
Urinalysis Gross Exam			RN
Specific Gravity	1.015	1.005 - 1.030	RN
pH	7.0	5.0 - 7.5	RN
Urine-Color	Yellow	Yellow	RN
Appearance	Clear	Clear	RN
WBC Esterase	Negative	Negative	RN
Protein	Negative	Negative/Trace	RN
Glucose	Negative	Negative	RN
Ketones	Negative	Negative	RN
Occult Blood	Negative	Negative	RN
Bilirubin	Negative	Negative	RN
Urobilinogen, Semi-Qn	1.0 EU/dL	0.0 - 1.9	RN
Nitrite, Urine	Negative	Negative	RN
Microscopic Examination			RN
Microscopic follows if indicated.			

## Basic Metabolic Panel (8)

Glucose, Serum	105 H	mg/dL	65 - 99	RN
BUN	16	mg/dL	5 - 26	RN
Creatinine, Serum	1.3	mg/dL	0.5 - 1.5	RN
BUN/Creatinine Ratio	12		8 - 27	
Sodium, Serum	138	mmol/L	135 - 148	RN
Potassium, Serum	3.9	mmol/L	3.5 - 5.5	RN
Chloride, Serum	98	mmol/L	96 - 109	RN
Carbon Dioxide, Total	26	mmol/L	20 - 32	RN
Calcium, Serum	10.3	mg/dL	8.5 - 10.6	RN

## Prostate-Specific Ag, Serum

Prostate-Specific Ag, Serum 1.8 ng/mL 0.0 - 4.0 RN

Beckman (formerly Hybritech) ICMA methodology. Values obtained with different assay methods or kits cannot be used interchangeably.

Results cannot be interpreted as absolute evidence of the presence or absence of malignant disease.

LAB: RN LabCorp Raritan  
69 First Avenue, Raritan, NJ 08869-0000

DIRECTOR: Irene Isaac V MD

Pat Name: GIBBON, CLIFTON

Pat ID: 101684883

Spec #: 048-042-3065-0

Seq #: 6338

Results are Flagged in Accordance with Age Dependent Reference Ranges

Last Page of Report

MED0007

NORMAL  
KIDNEY  
FUNCTION  
↑

EXHIBIT J



February 24, 2006

Re: CLIFTON GIBBON---SHY BLADDER EVALUATION

To: Anna Budd---NYC DOT

From: Jeffrey Altholz MD---*Certified, Medical Review Officer*

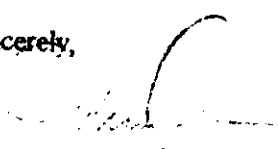
On February 17, 2006 Mr. Clifton Gibbon underwent Evaluation for Shy Bladder in compliance with 49 CFR Part 40.193, after not providing a urine specimen for drug testing.

Mr. Gibbon had a medical examination, a thorough medical and medication history and blood/urine tests at Westchester Medical Care PLLC in accordance with 49 CFR Part 40.193 to evaluate the possible presence of an acceptable alternative medical explanation for not providing a urine specimen as required when required for testing.

After review of all the clinical information, this test is deemed a *refusal to test* as no acceptable alternative medical explanation was discovered. As you know, a refusal to test is exactly equivalent to a positive test under Federal DOT regulations.

Please do not hesitate to call me with any questions or concerns you may have regarding this evaluation or the DOT regulations surrounding it.

Sincerely,

  
Jeffrey Altholz, MD  
Diplomate, American Board of Internal Medicine  
NYS License # 170767

MED0006



Home Base: Queens- Park Drive East  
Participant: Clifton Gibbon  
Participant ID: 769  
SSN: 101-68-4885

**EXHIBIT K**



**New York City  
Department of Transportation**

**Personnel Department**  
40 Worth Street, Room 801  
New York, New York 10013  
Tel: 212/442-6563  
Fax: 212/442-6530

**Iris Weinshall, Commissioner**

Web: [www.nyc.gov/dot](http://www.nyc.gov/dot)

March 10, 2006

RE: Assistant City Highway Repairer  
SSN: 106-68-4885

**NOTICE OF MEDICAL DISQUALIFICATION**

Dear Mr. Gibbons:

The following action has been taken concerning your proposed appointment to the above Position:

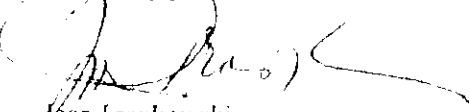
The Department of Transportation has found you **NOT QUALIFIED** for the following reasons:

- ☒ Medically: See explanation below
- ☐ Failed to complete Medical Examination

At your medical evaluation no legitimate medical condition was found that would have prevented production of a sufficient specimen. Pursuant to Federal regulations, your test result has been determined by our Medical Review Officer (MRO) to be a "refusal to test" which under the federal regulations carries the same consequences as a positive test result.

The above decision may be appealed in writing by your physician. If you wish to appeal, please contact the MRO by faxing the doctor's note to (914) 347-4901.

Very truly yours,

  
Jean Frankowski  
Director of Personnel

EOC00110



EXHIBIT L

THU 0:33 2127244006 PETER SHAW P.01

Attention  
Joe. Pules



3/8/06

QUEENS-LONG ISLAND MEDICAL GROUP, P.C.

To whom it may concern

Re - Mr Clifton Gibbon

This is to state Mr Clifton Gibbon  
has benign prostatic hyperplasia  
which causes problems with  
urination. In case of any  
questions feel free to call  
me @ 718 526 6300 ext 8019

Yours sincerely

M. Bhara

M. BHARARA M.D.  
Lic. # 211683  
DEA # BB65-11836

PER0006

**EXHIBIT M**



QUEENS-LONG ISLAND MEDICAL GROUP, P.C.

3/22/06

To whom it may concern

Re Clifton G Gibbon

This is to state that Mr Clifton C  
Gibbon has BPH. Patient commenced  
on flomax 2/18/06 & patient is  
now able to urinate comfortably  
and take a drug test.

Yours sincerely

M. Bharara

M. BHARARA, M.D.  
Lic. # 214683  
DEA # BB6541836

EXHIBIT N

2006-03-23 14:39:40 GMT

1-914-206-5444 From Jeffrey Altholz, MD

**FAX COVER SHEET**

TO	Anna Budd
COMPANY	NYC DOT
FAX NUMBER	12124427834
FROM	Jeffrey Altholz, MD
DATE	2006-03-23 14:44:19 GMT
RE	Gibbons Additional Data #2

**COVER MESSAGE**

Dear Anna:

I have received an additional note dated 3/22/06 from Dr Bharara regarding medical information pertaining to Clifton Gibbons and his inability to provide a specimen for drug testing.

I have reviewed this information carefully and after consideration of the data contained in the letter, it does not change the prior conclusion that Mr. Gibbons test be deemed a refusal to test. Based on 49 CFR Part 40 guidelines, no valid medical explanation is being offered.

Please feel free to call with any questions.

Sincerely,

Jeffrey Altholz MD

Certified Medical Review Officer  
Diplomate, American Board of Internal Medicine

EOC00112

EXHIBIT O



**New York City  
Department of Transportation**

**Iris Weinshall, Commissioner**

**Personnel Department**  
40 Worth Street, Room 801  
New York, New York 10013  
Tel: 212/442-6563  
Fax: 212/442-6530

Web: [www.nyc.gov/dot](http://www.nyc.gov/dot)

March 31, 2006

Mr. Clifton Gibbon.

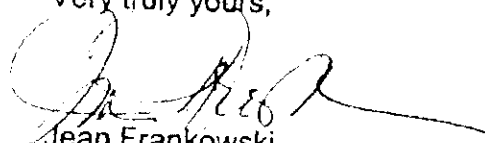
Flushing, NY 11361

Dear Mr. Gibbon:

On February 17, 2006 you underwent a required medical evaluation in compliance with 49 CFR Part 40, after you failed to provide a urine specimen for drug testing on February 15, 2006. The Medical Review Officer (MRO) reviewed all the clinical information and determined that your original failure to provide a specimen was a "refusal to test". Under the Federal DOT regulations, this carries the same consequences as a positive test result. On March 10, 2006 you were notified by letter that you were found medically "not qualified" for the position of Assistant City Highway Repairer because of this test result.

Subsequently, DOT received notice from the Medical Review Officer that additional medical information was forwarded to him by your physician. DOT's MRO now states that he has considered the information and that it does not change the prior conclusion that your test be deemed a "refusal to test". Therefore, the prior determination of "not qualified" must stand.

Very truly yours,

  
Jean Frankowski  
Director of Personnel

EOC00114



EXHIBIT P



06/16/06

To whom it may concern:

Re: Clifton G. Gibbon

DOB: 08/06/50

Mr. Gibbon was initially referred to me for evaluation of Lower urinary tract symptoms which he described as urgency, frequency, hesitancy and weak flow of urine. These symptoms he reports present for about 6 months. He was given Flomax by his PCP (Dr. Bhargava) for a presumed enlarged prostate (BPH).

On exam the patient has a mildly enlarged prostate by rectal, however prostate volume can be determined by ultrasound.

The patient reports difficulty submitting a urine specimen when asked, each time, while not on Flomax.

I have asked the patient to restart Flomax and will proceed with Urodynamic's if patient continues to have voiding dysfunction, in order to document either bladder outlet obstruction either due to BPH

000008

MS Group

-over-



Queens-Long Island  
Medical Group, P.C.

Caring for our community.

-Continued-

Res Clifton G Gibbon  
DOB: 08/06/50

or poor bladder contractility.

At present I am unable to state why Mr. Gibbon is unable to give a urine specimen when requested. While he may have BPH and Prostate is used to improve his voiding habits and urinary flow, it does not explain why he is unable to submit a urine test when requested.

Thank you.

Morten Corrajo, MD.

000009

EXHIBIT Q

**JUDGE BUCHWALD**

**07 CV**

**6698**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

CLIFTON GIBBON,

07 Civ.

Plaintiff,

- against -

CITY OF NEW YORK,

Defendant.

-----X

COMPLAINT

JUL 25 2007

PLAINTIFF DEMANDS D. N.Y.  
TRIAL BY JURY IN  
THIS ACTION

Plaintiff Clifton Gibbon ("Gibbon"), by his attorneys, Schwartz, Lichten & Bright, P.C.

complains of defendant City of New York, as follows:

JURISDICTION AND VENUE

1. This is an action brought to remedy discrimination in employment on the basis of disability, in violation of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq. ("ADA"); the New York State Human Rights Law, Executive Law § 290 et seq. ("Human Rights Law"); and the Administrative Code of the City of New York, § 8-101 et seq. ("Administrative Code").

2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331, 1343(a)(4), and 1367, and 42 U.S.C. § 12117(a).

3. Declaratory and injunctive relief, damages, and other appropriate legal and equitable relief are sought pursuant to 42 U.S.C. § 12117(a). Compensatory damages are sought pursuant to 42

U.S.C. § 1981a; Executive Law § 297(9); and Administrative Code, § 8-502(a). Punitive damages are sought pursuant to 42 U.S.C. § 1981a and Administrative Code, § 8-502(a).

4. Costs and attorney's fees are sought pursuant to 42 U.S.C. § 12117(a) and Administrative Code, § 8-502(f).

5. Venue is proper in the Southern District of New York, pursuant to 28 U.S.C. § 1391(b), because the unlawful employment practices occurred within this judicial district.

6. Plaintiff filed a charge of discrimination against defendant with the U.S. Equal Employment Opportunity Commission ("EEOC") on November 21, 2006. The United States Department of Justice, on July 18, 2007, issued plaintiff a notice informing him of his right to sue defendant. Plaintiff has fully complied with all prerequisites to jurisdiction in this Court under the ADA.

#### PARTIES

7. Gibbon was employed by the New York City Department of Transportation ("DOT") as an Assistant City Highway Repairer ("ACHR") from March 2001 until his discharge on March 10, 2006.

8. DOT is a municipal department of defendant City of New York, with its headquarters at 40 Worth Street, New York, New York.

### FACTS

9. Gibbon has been diagnosed with benign prostatic hyperplasia with acute urinary retention. One of the symptoms of Gibbon's condition is impairment of his ability to urinate. Gibbon is able to perform all of the functions of an ACHR.

10. On March 10, 2006, DOT notified Gibbon that the agency had "medically disqualified" Gibbon from his position as ACHR, effective immediately. On March 31, 2006, DOT advised Gibbon that his medical disqualification was due to Gibbon's inability to provide a urine specimen on February 17, 2006.

11. Gibbon was unable to provide a urine specimen because of his disability.

### FIRST CAUSE OF ACTION

12. DOT discharged Gibbon because he has a physical impairment that substantially limits at least one major life activity, urination. Defendant therefore discriminated against plaintiff because of his disability. By its acts and practices described above, defendant has violated the ADA.

13. As a result of defendant's discriminatory acts, plaintiff has suffered and will continue to suffer injury unless and until this Court grants relief. Defendant engaged in these discriminatory practices with malice and with reckless indifference to plaintiff's rights protected under federal law.

### SECOND CAUSE OF ACTION

14. By its acts and practices described above, defendant has violated the Human Rights Law.

15. As a result of defendant's discriminatory acts, plaintiff has suffered and will continue to suffer monetary damages and damages for mental anguish and humiliation unless and until this Court grants relief. Defendant willfully and maliciously engaged in these discriminatory practices.

### THIRD CAUSE OF ACTION

16. By its acts and practices described above, defendant has violated the Administrative Code.

17. As a result of defendant's discriminatory acts, plaintiff has suffered and will continue to suffer monetary damages and damages for mental anguish and humiliation unless and until this Court grants relief. Defendant willfully and maliciously engaged in these discriminatory practices.

WHEREFORE, plaintiff respectfully requests that this Court enter a judgment:

### ON THE FIRST CAUSE OF ACTION

- (a) declaring that the acts and practices complained of herein are in violation of the ADA;
- (b) enjoining and permanently restraining these violations of the ADA;
- (c) directing defendant to take such affirmative action as is necessary to ensure that the effects of these unlawful employment practices are eliminated and do not continue to affect plaintiff's employment opportunities;
- (d) directing defendant to place plaintiff in the position he would have continued to occupy but for defendant's discriminatory treatment of him, and make him whole for all earnings he would have received but for defendant's discriminatory treatment, including but not limited to wages, bonuses, pensions, and other lost benefits;



(e) directing defendant to pay plaintiff compensatory and punitive damages and damages for his mental anguish and humiliation;

(f) awarding plaintiff reasonable attorney's fees and the costs of this action;

(g) granting such other and further relief as this Court deems just and proper;

ON THE SECOND CAUSE OF ACTION

(h) awarding compensatory damages in an amount not yet ascertained;

ON THE THIRD CAUSE OF ACTION

(i) awarding compensatory and punitive damages in an amount not yet ascertained; and

(j) awarding plaintiff reasonable attorney's fees and costs of this action;

DEMAND FOR A TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, plaintiff demands a trial by jury on all of the causes of action herein.

Dated: New York, New York  
July 25, 2007

SCHWARTZ, LICHTEN & BRIGHT, P.C.



By: Stuart Lichten (SL-1258)  
Attorneys for Plaintiff  
275 Seventh Avenue - 17th Floor  
New York, New York 10001  
(212) 228-6320